

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**JOEL CADENA,**

Plaintiff,

v.

**UNITED STATES OF AMERICA,**

Defendant.

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Civil Action No. **3:17-CV-1815-L**

**ORDER**

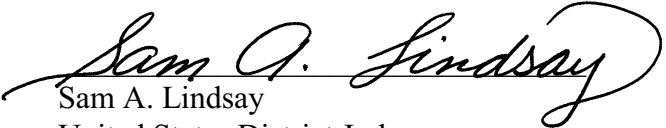
On September 11, 2017, United States Magistrate Judge David L. Horan entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”), recommending that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order. No objections to the Report were filed.

Having reviewed the pleadings, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** this action pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). The court **concludes** that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed

*in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 12th day of October, 2017.

  
Sam A. Lindsay  
United States District Judge